

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

IN THE UNITED STATES DISTRICT COURT  
FOR THE Southern DISTRICT OF TEXAS  
Corpus Christi DIVISION

Fred G. Martinez #2061834

Plaintiff's Name and ID Number

TDCJ- Stiles Unit

Place of Confinement

CASE NO.

(Clerk will assign the number)

v.

Nueces County Sheriff's Office / Jail, and  
Defendant's Name and Address Sheriff Jim Kaelin, and

All Booking Officers under his direction,  
Defendant's Name and Address individually and in their full capacity.

901 Leopard St., Corpus Christi, TX 78401

Defendant's Name and Address

(DO NOT USE "ET AL.")

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INSTRUCTIONS - READ CAREFULLY

**NOTICE:**

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, DO NOT USE THE REVERSE SIDE OR BACKSIDE OF ANY PAGE. ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

United States Courts  
Southern District of Texas  
FILED  
JUN 04 2018  
David J. Bradley, Clerk of Court

II. PLACE OF PRESENT CONFINEMENT: TDCJ- SHILES UNIT

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure?  YES  NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: Fred G. Martinez-TDCJ# 2061834  
3060 FM 3514  
Beaumont, TX 77705

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Nueces County Sheriff's Office/Jail, and Sheriff Kaelin,  
Defendant #1: And all Booking officers under his direction.  
901 Leopard St., Corpus Christi, TX 78401

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Claim #1: Plaintiff suffered extreme cruel treatment  
AS HE WAS IMPROPERLY JAILED IN AN UNAUTHORIZED  
HOLDING CELL IN EXCESS OF ALLOWABLE TIME.

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Claim #2: Holding cell of concern did not have  
ADEQUATE FACILITIES OR SUFFICIENT  
SUPERVISION TO SUPPORT A LONG TERM LAYOVER.

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Claim #3: Plaintiff was denied proper food for  
the delinquent amount of time.

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Claim #4: Plaintiff was denied all forms of  
communication for an EXCESSIVE  
AMOUNT OF TIME, AND DENIED ACCESS TO COURTS.

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Claim #5: Plaintiff was denied necessities such as a  
MATRESS, PILLOW, BLANKET, UNDERGARMENTS AND HYGIENE  
OUTSIDE OF ANY ALLOWABLE COMMISSIONS.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

SEE ATTACHMENT #1

#(Plaintiff to extend Declaration of Oath  
to Attachment #1)

VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

Monetary compensation for damages of deprivation,  
PAIN AND SUFFERING from the cruel treatment,  
and violations of Plaintiff's Const'l Rights.

VII. GENERAL BACKGROUND INFORMATION:

- A. State in complete form, all names you have ever used or been known by including any and all aliases.

FRED G. MARTINEZ

- B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

TDCJ# 2061834 - SID# 0010134172

VIII. SANCTIONS:

- A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES  NO

- B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): \_\_\_\_\_

2. Case number: \_\_\_\_\_

3. Approximate date sanctions were imposed: \_\_\_\_\_

4. Have the sanctions been lifted or otherwise satisfied? YES  NO

- C. Has any court ever warned or notified you that sanctions could be imposed?  YES  NO
- D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued.  
(If more than one, use another piece of paper and answer the same questions.)
1. Court that issued warning (if federal, give the district and division): \_\_\_\_\_
  2. Case number: \_\_\_\_\_
  3. Approximate date warning was issued: \_\_\_\_\_

Executed on: 5-5-18  
DATE

  
Fred G. Martinez  
(Signature of Plaintiff)

#### PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 5<sup>th</sup> day of May, 20 18.  
(Day) (month) (year)

  
Fred G. Martinez  
(Signature of Plaintiff)

**WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.**

CASE No.: \_\_\_\_\_

United States Courts  
Southern District of Texas  
FILED  
JUN 04 2018  
David J. Bradley, Clerk of Court

Attachment #1

Fred G. Martinez  
TDCJ #2061834,  
Plaintiff.

v.

NUECES Cty. Sheriff's Office/Jail,  
and NUECES Cty. Sheriff-Jim KAELIN,  
and All booking Deputies.

ATTACHMENT #1

I. Introduction: Plaintiff files this suit claiming various violations of his Constitutional rights laid out in State and Federal Statutes, while in the care of The Nueces County Sheriff/Nueces County Jail, which has caused Nominal, Compensatory and Punitive Damages. These acts derived from gross negligence, violating Plaintiff's 8<sup>th</sup> and 14<sup>th</sup> Amendment Rights of the U.S. Constitution.

Although lawful incarceration brings about necessary withdrawal of many privileges and rights, prisoners do not shed all their rights at the prison gates. • Madison v. Parker, 104 F.3d 765.

Both, convicted prisoners and pretrial detainees must be accorded the constitutional rights not fundamentally inconsistent with imprisonment itself or incompatible with objectives of incarceration; these rights include, reasonable rights to access to courts, freedom from invidious racial discrimination, reasonable opportunity to exercise right of religious freedom, and due process of law.

• Wagner v. Thomas, 608 F. Supp. 1095.

Inmates have rights to governmental regularity and humane treatment.

• Bihms v. Klevathagan, 928 F. Supp. 717

Prison Officials may not ignore obvious dangers to inmates.

• Morris v. City of Alvin, TEX., 950 F. Supp. 804

Plaintiff sought assistance from The Commission on Jail Standards, seeking investigation for the bad acts by Nueces County Jail officials, to include:

- (1) housed in an unauthorized jail cell,
- (2) exceeding the 48 hrs time limit to process,
- (3) No minimal necessities,
- (4) No adequate food,
- (5) denial of all forms of communications, and
- (6) denial of access to Courts.

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Plaintiff introduces the following information:

II. Claim #1: Plaintiff was wrongfully and illegally housed periodically in an inadequate jail cell for an extended amount of time exceeding the 48-hr time-limit allowed for the booking process, \*(see Exhibit #1), and as outlined in proper procedures laid out for minimal jail standards for TERAS facilities.

The Commission on Jail Standards regulates compliance and enforces standards required from jail officials, which has discovered various violations produced from the investigation conducted by Official Authority. \*(see Exhibits #1 and #2)

The Commission has determined that this area of concern did exist, which created the malefactions. \*(see Exhibit #1).

This particular area was referred to by inmates as "The Dungeon," which was located in the harsh confines of the jail's basement that held extremely limited facilities, no proper sanitation and poor supervision, among other bad substances. \*(see Inmates Declaration #1, #2 and #3.)

The Constitution does not mandate comfortable prisons, but neither does it permit inhumane ones. U.S.C.A. Const. Amend. 8.

- Nettles v. Griffith, 883 F. Supp. 136;
- Vega v. Parsley, 700 F. Supp. 879.

Like all prison officials, supervisory officials have a duty to take reasonable measures to protect inmates. U.S.C.A. Const. Amend 8.

- Johnson v. Johnson, 385 F. 3d 503.

Claim #2: Plaintiff suffered cruel treatment as he was forcefully housed in an unauthorized jail cell in the jail's basement on multiple occasions, starting on March 23, 2016, and ultimately ending on April 26, 2016.\* (see Exhibits #1 and #2)

This holding cell of concern held NO adequate facilities, not fit for long term holding, and carried insufficient jail accommodations. Plaintiff was denied proper access to showers, as outlined for minimal jail standards, (every other day, or sooner if possible), and was not afforded daily clean change of clothing.

The Jail violated Plaintiff's 8<sup>th</sup> Amendment Rights by acting in deliberate indifference when deprived of sanitation, proper working toilets and sink, sanitary supplies, adequate shower, for the extended amount of time, which allies with gross negligence.

• Sanford v. Brookshire, 879 F. Supp. 691.

Inmates of County Jail should be provided with clean change of clothes everyday.

• Alberti v. Sheriff of Harris County, TEX., 406 F. Supp. 649.

Claim #3: Plaintiff was denied adequate food for the delinquency of time specified while forced into the unauthorized jail cell.

CARE and feeding of inmates are services for which Penal Institutions may be liable under Tex. Tort Claims Act, since they are only incidental to police protection.

VTCA Civil Practice and Remedies Code § 101.0215

• Alvarado v. City of Brownsville, 865 S.W.2d 148.

To comply with the Constitution, inmates must receive "REASONABLE Adequate Food." U.S.C.A. Const. Amnd. 14.

• Eason v. Thaler, 73 F.3d 1322.

Plaintiff was fed poorly with inevitable, outdated bologna sandwiches, and was fed [ONLY] THESE sandwiches for the duration of 18 days in March/April, and again for 4 days in May 2016. \*(see Exhibits #1 and #2).

Spoiled food is generally considered "No Food," and is defined as deprivation of food, which violates Plaintiff's 8th Amendment Rights.

Continuously being denied food and water presents a set of facts that may entitle a prisoner to relief,

• Garrett v. Borden, 202 S.W.3d 463, and inmate's allegations of being held in detention for an extended amount of time without receiving food was sufficient to state a cause of action, GARRET.

Claim #4: Plaintiff was denied all forms of communication and access to courts, to include:

- (1) deprivation of phone privileges,
- (2) access to commissary to purchase mailing supplies,
- (3) access to the law library to seek legal assistance for current case,

which directly affected the outcome of his trial.

The first instance of the violations occurred on or about March 23, 2016, and continued until May 26, 2016, while forced into the unauthorized jail cell.

Prison Jail officials may restrict telephone privileges in reasonable manner, but some limitations imposed on prisoners for use of telephone may violate inmates' constitutional rights.

- McMaster v. Pung, 984 F.2d 948. 953.

Prison officials may not deny or obstruct inmates' access to courts.

- Bounds v. Smith, 430 U.S. 817;
- Johnson v. Avery, 393 U.S. 483;
- Sands v. Lewis, 886 F.2d 1166.

Claim #5: Plaintiff was denied minimal necessities of a mattress, blanket, undergarments and all hygiene, as he slept on an extremely cold concrete floor of the basement of the jail for the extended amount of time (total of 22 days), while forced into the unauthorized jail cell.

Plaintiff was also denied a pillow, which he can actually prove to be a medical necessity.

Prisoners have a right to protection from extreme cold, Palmer v. Johnson, 193 F. 3d 346, which these bad acts are considered "gross negligence" and violates Const. Amd. 8.

The Commission's investigation reveals that Plaintiff was not officially housed until after 18 days, plus another 4 days, and was in "HOLDING", which the jail claims that inmates are not entitled to any such items while in holding, and only after an inmate is transferred to proper housing. \*(see Exhibits # 1 and # 2).

Plaintiff shows he was deprived of minimal measures of life necessities violating U.S.C.A. Const. Amd. 8, 14; 42 U.S.C.A. § 1983

Medical care of inmates are services for which Penal Institutions may be liable under Tex. Tort Claims Act (TTCA), since they are only incidental to police protection.

VTCA Civil Practice and Remedies Code § 101.0215  
U.S.C.A. Const. Amd. 8

III. Conclusion: The custodial officer's foul treatment of Plaintiff clearly lays parallel with the definitions of "Cruel and Unusual Punishment," which has violated his 8<sup>th</sup> and 14<sup>th</sup> Amendment Rights guaranteed by the U.S. Constitution.

Officer's actions are not adequately justified and show to have clearly deluted Plaintiff's equal protection rights. Officers were fully aware of the foul treatments and Constitutional violations; trampling on Plaintiff's due process rights.

Officers plainly surpassed the allowable 48-hr time limit for processing of inmates, as plaintiff was set into an unauthorized jail cell not fit for long term holding, and forcefully set in this area for over any feasable time to process, and further, was grossly abused throughout this process.

Plaintiff suffered physically, mentally and medically as he experienced bad acts by the Nueces County Sheriff's Deputies on assignment in booking, while he was under the care of the Nueces County Sheriff's Office / Nueces County Jail, and as officers were under direct charge of the Nueces County Sheriff.

- Under Texas Law, the Sheriff owes a duty to prisoners to keep safely a person committed to his custody.
  - VERNON'S ANN. TEXAS CIV. ST. ART. 5116
  - VERNON'S ANN. TEXAS C. C. P. ART. 16.21
  - Alberti v. Heart, 600 F. Supp. 443

These extreme bad acts of gross negligence caused Plaintiff to experience cruel physical punishment, prolonged mental anguish, stress, and directly impeded his efforts of accessing the Courts, which ultimately led to a flawed defense for lack of communication.

This treatment was certainly unreasonable, and NOT accidental or unforeseen, but instead, deliberate with full instigation from higher Authority, setting the Cruel and Unusual Punishment, which caused atypical and significant hardship, violating Both the 8<sup>th</sup> and 14<sup>th</sup> Amendment Rights, when such acts give rise to a liberty interest protected by due process of law.

DUE PROCESS IS A CONSTITUTIONAL LAW and holds provisions that prohibits the government from unfairly or arbitrarily depriving a person of life, liberty, or property.

—Plaintiff clearly shows to have reasonable cause in filing this claim.

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—If no single claim of deficiency amounts to prejudice, the reviewing court must access the commutitive impact of all deficiency claims.

- Williams v. Taylor, 529 U.S. 362 (2000);  
Washington v. Smith, 219 F.3d 620, 634-35 (2000).
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The 2-yr time limitation for filing a claim should not be applied in civil rights actions in Federal Courts based on incarceration of Plaintiff.

- Vernon's Ann. Civ. St. 5535
  - Stephen v. Curtis, S.D. TEX. 1978. 450 F. Supp. 141;  
Jenkins v. State, (Civ. App. 1978) 570 S.W. 2d 175.
- 

Plaintiff is not an attorney, and has the expectancy of this proceeding to be liberally construed, in which, a plaintiff cannot be held to the same standards of articulation as an attorney, when Plaintiff proceeds pro se.

- Henderson v. Beto, 309 F. Supp. 244;
  - Bledsoe v. Johnson, 188 F.3d. 250.
-

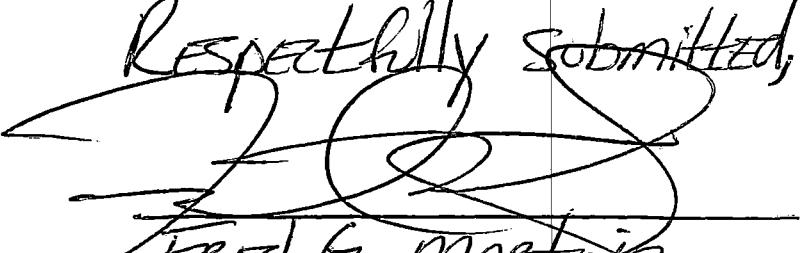
#### IV. Facts for Consideration - Exhibits #1 and #2.

- On Jan. 4, 2017, Inspector Jackie Semmier from the Commission on Jail Standards corresponded with Plaintiff regarding her investigative findings of various violations (Exhibit #1), to include:
  - (A) An unauthorized area of concern did exist,
  - (B) An excess of 48-hrs time-limit to process had occurred,
  - (C) All inmates receive sandwiches until transferred to a housing unit, and
  - (D) All inmates are issued hygiene when transferred to proper housing unit.
- Inspector Semmier states that "A change to procedures was enacted." and found these violations occurring only on 5/23/2016 to 5/26/2016 (4 days). and closed her case, but states that "they will continue to monitor to ensure compliance," (meaning; they were found to be in violation.)
- Plaintiff immediately petitioned the Commission to investigate further, as the investigation did not fully reveal all dates in question, (Mar/April).
- On Feb. 9, 2017, Asst. Dir. Shannon J. Herklotz from the Commission on Jail Standards determined that NO violations of jail standards had occurred, (Exhibit #2-p.1).
- Yet, Inspector Semmier's findings in her initial investigation reveals otherwise, (Exhibit #1).
- But, Asst. Dir. Herklotz investigation ultimately does REVEAL an additional 18 days, from March 23, 2016 to April 11, 2016.
- Facts clearly show that Plaintiff was not officially housed into proper housing until April 11, 2016, causing the initial violations for these Additional 18 days discovered, (Exhibit #2-p.2).
- Findings do show Plaintiff was alternately housed from holding area and Unit 4R, (Unit 4R is 100% restricted holding cells).
- Facts also state that "inmates in holding are provided a shower every other day as outlined in minimum jail standards."
- But, Asst. Dir. Herklotz [omits] any findings of the jail actually doing so, as where Investigator Semmier's results reveal this type of findings in initial investigation, (Exhibit #1).

— Asst. Dir. Shannon J. Herklotz, (from the Commission on Jail Standards) → denying Plaintiff's claims are transparent efforts to gloss over the facts of the initial findings of the bad acts discovered by Investigator Semmier, • finally realizing it was actually a total of 22 days; not simply 4 days, → Asst. Dir. is now attempting to retract from the initial findings. —

PRAYER: Wherefore, Plaintiff prays for relief and respectfully seeks a monetary judgement for Nominal, Compensatory and Punitive Damages for the aggregate of all foul actions, which were acted out by numerous Sheriff Deputies while under direct command of the Nueces County Sheriff, for the multiple Constitutional violations, governed by State and Federal Statutes.

Plaintiff seeks a total sum of \$2.2 million dollars (\$2,200,000.). Plaintiff suffered for a total of the duration of 22 days and seeks one-hundred thousand dollars per day for every day of foul actions, pain and suffering, and related damages, and any additional relief this court deems just, proper, and equitable.

Respectfully submitted,  
  
\_\_\_\_\_  
Fred G. Martindale

5-5-18  
DATE



102.75 MEDICAL CO-PAY OWED:

.00

LOCATION: DORM A

UNIT: P1

P2

FEDERAL COURT FEE OWED:

.00

TEXAS COURT FEE/CHARGE OWED:

.00

NAME: MARTINEZ, FRED JR

ACCOUNT

NUMBER:

02061834

INDIGENT SUP. OWED:

.00 OTHER HOLD AMOUNT

.00

BEGINNING BALANCE:

308.75

	ITEM/DESCRIPTION	WITHDRAWALS	DEPOSITS	BALANCE
29	WU E DELGADO		50.00	258.75
30	WP WEB SALE E DELGADO			258.75
31	WS RECEIPT OF WEB SALE	.00		258.75
32	CM	70.34		268.41
33	CM	23.20		264.61
34	WU M JETT		50.00	314.61
35	CM	57.65		256.96
36	CM	16.60		240.36
37	MF 0010000 000000OUTME	100.00		140.36



102.00 MEDICAL CO-PAY OWED:

.00

TESTMT

LOCATION: DORM A

UNIT: P1

FEDERAL COURT FEE OWED:

.00

TEXAS COURT FEE/CHARGE OWED:

.00

NAME: MARTINEZ, FRED JR

ACCOUNT

NUMBER:

02061834

INDIGENT SUP. OWED:

.00 OTHER HOLD AMOUNT

.00

BEGINNING BALANCE:

140.36

	ITEM/DESCRIPTION	WITHDRAWALS	DEPOSITS	BALANCE
29	CM	39.95		100.41
30	WU M JETT		50.00	150.41
31	WU E DELGADO		65.00	215.41



102.91 MEDICAL CO-PAY OWED:

.00

TESTMT

LOCATION: ADM SEC PH

UNIT: ST

FEDERAL COURT FEE OWED:

.00

TEXAS COURT FEE/CHARGE OWED:

.00

NAME: MARTINEZ, FRED JR

ACCOUNT

NUMBER:

76-14  
02061834

INDIGENT SUP. OWED:

.00 OTHER HOLD AMOUNT

.00

BEGINNING BALANCE:

215.41

	ITEM/DESCRIPTION	WITHDRAWALS	DEPOSITS	BALANCE
29	CM	9.42		205.99
30	CM	.00		205.99

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120, 871 MEDICAL CO-PAY OWED: .00

LOCATION: BLDG 7-G-1 ROW 14 UNIT: ST

FEDERAL COURT FEE OWED: .00

NAME: MARTINEZ, FRED JR

TEXAS COURT FEE/CHARGE OWED: .00

ACCOUNT

NUMBER: 02061834

DATE: 01/31/18

INDIGENT SUP. OWED: .00 OTHER HOLD AMOUNT .00 BEGINNING BALANCE: 205.99

	ITEM/DESCRIPTION	WITHDRAWALS	DEPOSITS	BALANCE
115	CM	44.55		161.44

120, 381	MEDICAL CO-PAY OWED: .00	TESTMT	LOCATION: BLDG 7-G-1 ROW 14	UNIT: ST
	FEDERAL COURT FEE OWED: .00		NAME: MARTINEZ, FRED JR	
	TEXAS COURT FEE/CHARGE OWED: .00		ACCOUNT NUMBER: 02061834	

INDIGENT SUP. OWED: .00 OTHER HOLD AMOUNT .00 BEGINNING BALANCE: 161.44

	ITEM/DESCRIPTION	WITHDRAWALS	DEPOSITS	BALANCE
111	CM	49.77		111.67
115	WU D MARTINEZ	30.00		141.67
117	WU M JETT	50.00		191.67
118	CM	56.82	100.00	234.85
	WU E DELGADO			

120, 812	MEDICAL CO-PAY OWED: .00	TESTMT	LOCATION: BLDG 7-G-1 ROW 14	UNIT: ST
	FEDERAL COURT FEE OWED: .00		NAME: MARTINEZ, FRED JR	
	TEXAS COURT FEE/CHARGE OWED: .00		ACCOUNT NUMBER: 02061834	

INDIGENT SUP. OWED: .00 OTHER HOLD AMOUNT .00 BEGINNING BALANCE: 234.85

	ITEM/DESCRIPTION	WITHDRAWALS	DEPOSITS	BALANCE
111	CM	69.40		165.45
115	WU D MARTINEZ	40.00		205.45
118	CM	37.75		167.70

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Fred G. Martinez  
TDCJ#2061834,  
Plaintiff.

v.

NUECES Cty. Sheriff's Office/Jail,  
and Sheriff Jim Kaelin, and all  
Booking Deputies under his command.

Declaration #1  
of  
Robert Garcia

CASE NO.: \_\_\_\_\_

### Declaration of Oath

On or about September 17, 2015 I, Robert Garcia,  
TDCJ# 02079822 -SID# 10172327, was incarcerated in the  
NUECES County Jail.

During the Booking process at this facility, I experienced  
multiple foul actions exercised by NUECES County Deputies assigned  
in the Booking Department. These bad acts include:

(1) Jailed in an unauthorized holding cell in the harsh confines of  
the basement of the NUECES County Jail, referred to by  
inmates as "THE DUNGEON."

(2) Deprivation of: (a) phone privileges  
(b) commissary  
(c) law library  
(d) necessities  
(e) adequate food  
(f) showers

(3) Excess of the 48-hes time limit to process.

I, Robert Garcia, in the TDCJ- Stiles Unit,  
declare under penalty of perjury that the foregoing instrument  
is true and correct.

Executed on the 10<sup>th</sup> day of May, 2018.

R.G.  
DECLAREE

FRED G. MARTINEZ  
TDCJ#2061834,  
Plaintiff.

United States Courts  
Southern District of Texas  
FILED

JUN 04 2018

David J. Bradley, Clerk of Court

v.

NUECES Cty. Sheriff's Office/Jail,  
and Sheriff Jim KELIN, and all  
Booking Deputies under his command.

DECLARATION #2 of  
Jesco Rodriguez

CASE NO.: \_\_\_\_\_

## DECLARATION OF OATH

On or about 1-2-15, I Jesco Rodriguez,  
TDCJ# 1985545 - SID# \_\_\_\_\_, was incarcerated in the  
NUECES County Jail.

During the Booking process at this facility, I experienced  
multiple foul actions exercised by NUECES County Deputies assigned  
in the Booking Department. These bad acts include:

(1) JAILED in an unauthorized holding cell in the harsh confines  
of the basement of the NUECES County Jail, referred to by  
inmates as "The Dungeon."

(2) DEPRIVATION of: (a) phone privileges  
(b) commissary  
(c) law library  
(d) necessities  
(e) adequate food  
(f) showers

(3) EXCESS of the 48-hes time-limit to process.

I, Jesco Rodriguez, in the TDCJ- Stiles Unit,  
declare under penalty of perjury that the foregoing instrument  
is true and correct.

Executed on the 10th day of May, 2018.

Jesco Rodriguez  
DECLAREE

Fred G. Martinez  
TDCJ#2061834,  
Plaintiff.

United States Courts  
Southern District of Texas  
FILED

JUN 04 2018

David J. Bradley, Clerk of Court

V.

NUECES Cnty. Sheriff's Office/Jail,  
and Sheriff Jim Kaelin, and All  
Booking Deputies under his command.

~~Declaration #3 of~~  
Ruben Ramos

CASE NO. \_\_\_\_\_

### Declaration of Oath

On or About March 20 2011 I, Ruben Ramos,  
TDCJ#01723461, SID#                , was incarcerated  
in the NUECES County Jail.

During the Booking process at this facility, I experienced  
multiple foul actions exercised by NUECES County Deputies assigned  
in the Booking Department. These bad acts include:

(1) JAILED in an unauthorized holding cell, in the harsh confines  
of the basement of the NUECES County Jail, referred to  
by inmates as "The Dungeon."

(2) Deprivation of: (a) phone privileges  
(b) commissary  
(c) law library  
(d) necessities  
(e) adequate food  
(f) showers

(3) EXCESS of the 48-hrs time-limit to process.

I, Ruben Ramos, in the TDCJ-SILES Unit,  
declare under penalty of perjury that the foregoing instrument  
is true and correct.

Executed on the 16th day of May, 2018.

Ruben Ramos <sup>Oct 01723461</sup>  
DECLAREE

# TEXAS COMMISSION ON JAIL STANDARDS

EXECUTIVE DIRECTOR  
Brandon S. Wood



P.O. Box 12985  
Austin, Texas 78711  
Voice: (512) 463-5505  
Fax: (512) 463-3185  
<http://www.tcjs.state.tx.us>  
[info@tcjs.state.tx.us](mailto:info@tcjs.state.tx.us)

Exhibit # 1

January 24, 2017

Fred Martinez TDCJ # 2061834  
C/O Connally Unit  
899 FM 632  
Kenedy, TX. 78119

Dear Mr. Martinez:

Your concerns regarding the Nueces County Jail have been reviewed by the inspector. After reviewing the allegations with the staff of the jail, it was determined that an area of concern did exist. In your letter you stated that you were held in holding for 18 days. Staff is reporting that you were booked on 5/23/2016 and transferred to housing on 5/26/2016 which is in excess of 48 hours. Upon notification, Nueces County Officials took immediate action to resolve the issues and a change to procedures was enacted. Thank you for bringing this to our attention.

Furthermore, staff is reporting that all inmates that are in holding receive sandwiches until they are transferred to a housing unit. Staff reported that you received a shower on 5/24/2016 and then had access to a shower 16 hours a day. Minimum jail standards requires that inmate each inmate shall be given the opportunity to shower at least every other day or more often if possible. As for not being allowed proper hygiene, staff report that it is standard policy that inmates are issued hygiene supplies when they are transferred to the proper housing unit.

Please be advised the Texas Commission on Jail Standards has regulatory authority over county and privately operated jails that house county and out of state inmates. Our commission regulates jails to insure that they are in compliance with minimum standards. The issue that you addressed in your letter being transferred to TDCJ within 72 hours does not fall under our purview. I recommend that you direct your concerns to the sheriff or jail administrator.

While this investigation will be closed, this agency will continue to monitor the Nueces County Jail to ensure compliance with minimum jail standards.

Best regards,

A handwritten signature in black ink that appears to read "Jackie Semmler".

Jackie Semmler  
Inspector

P.15(d) of 17

Judge Bill Stoudt, Longview, Chair  
Jerry W. Lowry, New Caney, Vice Chair  
Irene A. Armendariz, Austin

Sheriff Dennis D. Wilson, Groesbeck  
Sheriff Kelly Rowe, Lubbock

Larry S. May, Sweetwater  
Allan D. Cain, Carthage  
Dr. Esmaeil Porsa, M.D., Parker

"The Commission on Jail Standards welcomes all suggestions and will promptly respond to all complaints directed against the agency or any facilities under its purview".  
To empower local government to provide safe, secure and suitable local jail facilities through proper rules and procedures while promoting innovative programs and ideas

# TEXAS COMMISSION ON JAIL STANDARDS

EXECUTIVE DIRECTOR  
Brandon S. Wood



P.O. Box 12985  
Austin, Texas 78711  
Voice: (512) 463-5505  
Fax: (512) 463-3185  
<http://www.tcis.state.tx.us>  
[info@tcjs.state.tx.us](mailto:info@tcjs.state.tx.us)

Exhibit #2 p. 1

February 9, 2017

Fred G. Martinez #2061834  
899 FM 632  
Kenedy, Texas 78119

Dear Mr. Martinez:

Your concerns regarding the Nueces County Jail have been reviewed by the assistant director. After reviewing the allegations with the staff of the Nueces County Jail and Inspector Jackie Benningfield, it was determined that no violation of jail standards has occurred.

Mr. Martinez, records reveal the following:

- 16-Mar-23 @ 1652 Hrs. You were booked into the Nueces County Jail
- 16-Mar-25 @ 1349 Hrs. You were transferred to Unit 4R from holding pending protective custody housing due to charge [REDACTED]
- 16-Mar-26 @ 2043 Hrs. You were transferred to holding from Unit 4R due to conflicts with cellmate
- 16-Mar-26 @ 2240 Hrs. You were returned to Unit 4R.
- 16-Mar-27 @ 0157 Hrs. You were transferred to holding from Unit 4R after you stated that you feared for your safety.
- 16-Apr-01 @ 1345 Hrs. You refused transfer to Unit 4R; remained in holding.
- 16-Apr-05 @ 1352 Hrs. You were transferred to Unit 4R from holding.
- 16-Apr-05 @ 1836 Hrs. You were transferred to holding from Unit 4R due to making suicidal statements and placed on watch.
- 16-Apr-06 @ 1521 Hrs. You were transferred to Unit 4R after released from watch in holding.
- 16-Apr-11 @ 1209 Hrs. You were transferred to Unit 4H from Unit 4R – protective custody housing.
- 16-May-05 @ 1538 Hrs. You were transferred to Unit DSA (McKinzie Annex) from Unit 4H – protective custody housing.
- 16-May-09 @ 0156 Hrs. You were transferred to holding from Unit DSA pending release to TDCJ-ID.
- 16-May-09 @ 0916 Hrs. You were released to TDCJ-ID.

p. 16 of 17

Judge Bill Stoudt, Longview, Chair  
Jerry W. Lowry, New Caney, Vice Chair  
Irene A. Armendariz, Austin

Sheriff Dennis D. Wilson, Groesbeck  
Sheriff Kelly Rowe, Lubbock

Larry S. May, Sweetwater  
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# TEXAS COMMISSION ON JAIL STANDARDS

EXECUTIVE DIRECTOR  
Brandon S. Wood

Exhibit #2 p.2



P.O. Box 12985  
Austin, Texas 78711  
Voice: (512) 463-5505  
Fax: (512) 463-3185  
<http://www.tcjs.state.tx.us>  
info@tcjs.state.tx.us

Cpt. Martin Arnold advises and TCJS records indicate that Nueces Co. Jail was granted a variance to double bunk 96 single cells. This action was approved by our nine member Commission in 2008. Cpt. Arnold also advises that per Nueces Co. Jail policy, bedding and hygiene items are NOT allowed in the holding or detoxification cells unless approved by the medical staff. Inmates in holding are provide a shower every other day as outlined in minimum jail standards.

This is your final appeal. We will be taking no further action and have closed this case. While this investigation will be closed, this agency will continue to monitor the Nueces County Jail to ensure compliance with minimum jail standards.

Sincerely,

*Shannon J. Herklotz*

Shannon J. Herklotz  
Assistant Director

*p. 17 of 17*

Judge Bill Stoudt, Longview, Chair  
Jerry W. Lowry, New Caney, Vice Chair  
Irene A. Armendariz, Austin

Sheriff Dennis D. Wilson, Groesbeck  
Sheriff Kelly Rowe, Lubbock

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United States Courts  
Southern District of Texas  
FILED  
JUN 04 2018  
David J. Bradley, Clerk of Court

CASE No. \_\_\_\_\_

FRED G. MARTINEZ  
TDCJ#2061834,  
PLAINTIFF.

v.

NUECES COUNTY SHERIFF'S OFFICE/JAIL,  
AND SHERIFF JIM KAELIN, AND  
ALL BOOKING OFFICERS UNDER HIS DIRECTION,  
INDIVIDUALLY AND IN THEIR FULL CAPACITY.

COVER

To: U.S. District Court  
Southern District  
1133 N. Shoreline Blvd.  
Corpus Christi, TX 78401

From: Fred G. Martinez

#2061834- STILES  
3060 FM 3514  
Beaumont, TX 77705

United States Courts  
Southern District of Texas  
FILED

JUN 04 2018

David J. Bradley, Clerk of Court

Dear Clerk:

Enclosed you will find A complaint with Supporting evidence, A Pauper's Affidavit, and A REQUEST for ASSIGNMENT OF LEGAL REPRESENTATION.

PLEASE file THESE documents accordingly and bring to the attention of the Court.

Thank you,



FRED G. MARTINEZ

5-5-18

DATE

Cover

Fred G. Martinez  
#2061834-Styles  
3060 FM 3514  
Beaumont, TX 77705

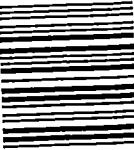
United States Courts  
Southern District of Texas  
FILED

JUN 04 2018  
David J. Bradley, Clerk of Court



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U.S. District Court  
Southern District  
1133 N. Shoreline Blvd.  
Corpus Christi, TX 78401

